

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

CLINT PHILLIPS, III,)	
)	
Petitioner,)	
)	
v.)	No. 4:14CV1884 JAR
)	
STATE OF MISSOURI,)	
)	
Respondent,)	

MEMORANDUM AND ORDER

This matter is before the Court on petitioner’s petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Because it appears that petitioner is no longer in custody, the Court will order petitioner to show cause why the petition should not be dismissed for want of jurisdiction.

Petitioner challenges a 2007 conviction for marijuana possession. Missouri v. Phillips, III, No. 0622-CR01611 (City of St. Louis). Petitioner was sentenced to five years’ imprisonment, but the sentence was suspended and he was placed on probation. Petitioner’s probation was revoked in February 2011, and he was imprisoned. Petitioner has since been released from prison, and it appears he is no longer in custody of the Missouri Department of Corrections.

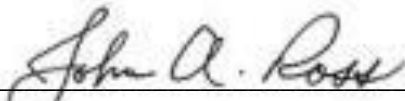
District courts have jurisdiction to entertain petitions for habeas relief only from persons who are “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3). The custody requirement is fulfilled when a petitioner is in custody “under the conviction or sentence under attack at the time his petition is filed.” Maleng v. Cook, 490 U.S. 488, 490-91 (1989). Where, as appears to be the case here, the sentence under challenge has fully expired, the custody requirement is not met. Id. As a result, the Court will order

petitioner to show cause why this case should not be dismissed for lack of jurisdiction. See Fed. R. Civ. P. 12(h)(3); Rule 4 of the Rules Governing § 2254 Cases.

Accordingly,

IT IS HEREBY ORDERED that petitioner shall show cause no later than **December 13, 2014**, why this action should not be dismissed for lack of jurisdiction.

Dated this 14th day of November, 2014.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE